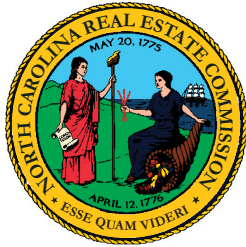


NORTH CAROLINA REAL ESTATE COMMISSION



ADVISORY COMMITTEE

ERRORS AND OMISSIONS INSURANCE

REPORT

July 18, 2002

**NORTH CAROLINA REAL ESTATE COMMISSION
ERRORS AND OMISSIONS INSURANCE ADVISORY COMMITTEE**

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**NORTH CAROLINA REAL ESTATE COMMISSION
ERRORS AND OMISSIONS INSURANCE ADVISORY COMMITTEE**

Charge

To advise the Real Estate Commission on whether it should support legislation to require real estate licensees to maintain errors and omissions insurance coverage as a condition of licensure; and, if so, the amount and terms of such coverage and how the insurance program should be administered.

Recommendations

1 That the Real Estate Commission include in a future continuing education *Update* course instruction on risk reduction and related issues, including the benefits of errors and omissions insurance coverage.

2 That the Commission seek legislation which would permit the Commission to require all or certain of its licensees to purchase errors and omissions insurance; authorize the Commission to set the standards and limitations of the required coverage; and establish the fees and the administrative and enforcement mechanisms necessary to give force and effect to any errors and omissions insurance program. In doing so, the Commission should consult with the North Carolina Association of REALTORS® and other organizations and parties interested in the legislation. *[Note: The committee recommended that such legislation not direct the Commission or any other entity to contract with an insurance provider for a group policy, but rather limit the Commission's involvement to assuring that licensees maintain insurance.]*

**NORTH CAROLINA REAL ESTATE COMMISSION
ERRORS AND OMISSIONS INSURANCE ADVISORY COMMITTEE**

Plan

I. Name: North Carolina Real Estate Commission *Errors and Omissions Insurance Advisory Committee*.

II. Charge: To advise the Real Estate Commission on whether it should support legislation to require real estate licensees to maintain errors and omissions insurance coverage as a condition of licensure; and, if so, the amount and terms of such coverage and how the insurance program should be administered.

III. Committee Composition

A. Seven members named by the Commission as follows:

1. Four licensed real estate brokers and/or salespersons including
 - a. One licensee primarily engaged in property management; and
 - b. One licensee primarily engaged in commercial real estate brokerage.
2. One representative from the staff of the North Carolina Association of REALTORS®
3. Two members of the Real Estate Commission

B. Advisors:

1. Commission Staff
 - a. Executive Director (Facilitator)
 - b. Director and/or Assistant Director of Legal Services
 - c. Director of Administration
2. Representative from N.C. Department of Insurance

IV. Meetings

A. Real Estate Commission Office

B. Dates and Time

1. April 30, 2002
2. May 29, 2002
3. July 2, 2002 (if needed)

V. Compensation

A. Members - Travel and subsistence reimbursed at state employee rates (excess reimbursement of actual hotel expenses).

B. Commission members - Per diem and expenses (excess reimbursement of actual hotel expenses).

**NORTH CAROLINA REAL ESTATE COMMISSION
ERRORS AND OMISSIONS INSURANCE ADVISORY COMMITTEE**

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NORTH CAROLINA REAL ESTATE COMMISSION
ERRORS AND OMISSIONS INSURANCE ADVISORY COMMITTEE

April 30, May 29, (July 2), 2002

Raleigh, North Carolina

WORK PLAN

I.

Background

- A. Welcome committee members. [Fisher, **Item 1**]
 - B. Charge: To advise the Real Estate Commission on
 - 1. Whether it should support legislation to require real estate licensees to maintain errors and omissions insurance coverage; and, if so,
 - 2. The amount and terms of coverage and how the insurance program should be administered.
 - C. Background
 - 1. Real estate errors and omissions insurance in North Carolina and elsewhere (past, current, and what to expect in future). [Guest Presenter: Bill Mounsey, Vice-President, Casualty Programs, and Terry Cooper, Pearl & Associates, Ltd., **Handout**]
 - 2. Mandatory errors and omissions insurance programs in other states. [Fisher, **Item 2**]
- a. Advantages? Disadvantages (pricing, availability, concern that too many agents don't have coverage, etc.)?
 - b. Who would favor current approach?
 - 2. Mandatory
 - a. Advantages/disadvantages?
 - b. Who would support legislation? Who would likely oppose ("We don't want government telling us what to do")?
 - c. Insurance provider issues.
 - (1) Is current insurance climate favorable, especially since September 11?
 - (2) Is there enough interest to attract competitive bids?

II.

Should North Carolina real estate brokers, salespersons, and perhaps firms (on active license status) be required to have errors and omissions insurance coverage?

- A. How do real estate consumers benefit from errors and omissions insurance? Are there disadvantages?
- B. How do real estate practitioners benefit? Are there disadvantages?
- C. Which is preferable--the voluntary (status quo) or mandatory approach?
 - 1. Voluntary

- D. Has NCAR done (or is it planning to do) studies or surveys of members regarding mandatory errors and omissions insurance?
- E. Other considerations.
- F. RECOMMENDATION(S) TO REAL ESTATE COMMISSION?

III.

(If answer to II. Is "Yes")

What should the amount and terms of coverage be, and how should the insurance program be administered?

A. Coverage

1. Who should be required to have coverage?
 - a. Brokers and salespersons with active licenses?
Inactive licenses? Nonresident licensees?
 - b. Real estate firms?
2. What should be covered?
 - a. "Wrongful Acts" (negligent act, error or omission)
 - (1) as real estate licensee
 - (2) as owner or part-owner of property
 - b. "Lock Box Property Damage"
 - c. Other

[Note: Policies normally do not cover bodily injury, property damage, personal injury, advertising injury; dishonest, fraudulent, criminal acts, etc.; conversion, misappropriation, failure to pay fees, etc.; violations of securities law; failure to maintain insurance or bonds; discrimination, employment related practices; pollution; asbestos, radon and lead; other business; contractual agreements; claims made by an insured; financial interest (transactions involving property that is owned, built or developed by an insured who has over a 15% or 25% ownership interest in the property).]

3. What should minimum amount of coverage be for
 - a. Wrongful Acts?
 - (1) \$_____ per wrongful act
 - (2) \$_____ aggregate (sum of all damages for any policy period)
 - b. Lock Box Property Damage?
 - (1) \$_____ per occurrence
 - (2) \$_____ aggregate
4. Other policy terms?
 - a. Defense expenses
 - b. Deductibles

- c. Payment of claims filed after policy expires
- d. Other

5. Other

6. RECOMMENDATION(S) TO REAL ESTATE COMMISSION?

B. Program Administration

1. Should enabling legislation require Real Estate Commission to make errors and omissions insurance available to licensees by contracting with insurer for group policy (but allow licensees to purchase equivalent insurance elsewhere)?
 - a. Advantages/disadvantages?
 - b. Who would likely support ? Oppose?
2. How could Commission and insurance provider best inform and educate licensees about insurance requirement and policy?
3. Role of Commission in administering program?
4. Other.
5. RECOMMENDATION(S) TO REAL ESTATE COMMISSION?

IV.

Related Issues, Adjournment

- A. Related issues?
- B. Adjourn.

**NORTH CAROLINA REAL ESTATE COMMISSION
ERRORS AND OMISSIONS INSURANCE ADVISORY COMMITTEE**

Meeting

April 30, 2002

REPORT

Committee Members Present:

Allan R. Dameron, Holden Beach
Patrice F. Jones, Belmont
Will Martin, Greensboro
Sharon L. Pelt, Raleigh
David L. Perrot, Kitty Hawk
Wanda J. Proffitt, Burnsville
John D. VanDyke, Asheville

Committee Advisors (N.C. Real Estate Commission Staff):

Phillip T. Fisher, Executive Director (*Facilitator*)
Mary Frances Whitley, Director of Administration
Special Deputy Attorney General Thomas R. Miller,
Legal Counsel
Linda Wheeler, Paralegal Intern

Others Present:

Bill Mounsey, Vice President Casualty Programs
John H. Pearl & Associates, Ltd.
Terry C. Cooper, Vice President National Sales
Administration
John H. Pearl & Associates, Ltd.

Committee Members

Mr. Fisher welcomed the members and guests to the first meeting of the advisory committee. Mr. Fisher stated that the Real Estate Commission appointed to the committee four licensed real estate brokers, of which one is primarily engaged in property management (Mr. Perrot) and one primarily engaged in commercial real estate brokerage (Mr. VanDyke); a representative from the staff of the North Carolina Association of REALTORS® (Mr. Martin, General Counsel); and two members of the Real Estate Commission (Mr. Dameron and Mrs. Proffitt). Mr. Fisher also recognized Bill Mounsey and Terry Cooper from John P. Pearl & Associates, Ltd. who were invited to attend as guest presenters.

After covering various administrative matters, Mr. Fisher reviewed with the committee its charge from the Commission; namely, to advise the Commission on

whether it should support legislation to require real estate licensees to maintain errors and omissions insurance coverage, and if so, the amount and terms of coverage and how the insurance program should be administered.

Background

Real Estate Errors and Omissions Insurance in North Carolina. Mr. Mounsey and Ms. Cooper reported to the committee on the experiences of John P. Pearl & Associates in providing errors and omissions insurance to North Carolina real estate agents. They stated that, as administrator for the errors and omissions insurance program endorsed by the North Carolina Association of REALTORS®, Pearl provides errors and omissions insurance to approximately 7,500 North Carolina real estate licensees with Kemper Insurance as the carrier. In addition to North Carolina, Pearl provides errors and omissions insurance to real estate agents in forty states. Other providers include CNA, Great American, American Equity, Cigna, Fireman's Fund, and Cincinnati Insurance. Mr. Mounsey and Ms. Cooper stated that Pearl only insures firms, but coverage extends to all real estate agents associated with the firm as well as its unlicensed employees. Single person firms are also eligible for insurance. They reported that based upon National Association of REALTORS® data, approximately 80% of real estate licensees nationwide have errors and omissions insurance.

According to Mr. Mounsey and Ms. Cooper, policies are available with \$100,000 limits, but a majority of insureds opt for a \$1,000,000 limit. Policies normally have a \$1000 deductible with no deductible for attorney fees. The base rate for a policy from Pearl with a \$100,000 limit and \$1,000 deductible is \$147 per person, but the premium may be reduced depending upon the number of persons affiliated with the firm, professional designations of its licensees, continuing education taken by licensees, and other factors. They stated, however, that premiums for firms which engage in commercial real estate transactions are higher than for residential transactions because the commercial risk is higher with fewer, but larger claims.

Regarding claims experience, Mr. Mounsey and Ms. Cooper reported that in North Carolina in 2001, Pearl

processed 102 claims, of which 62 were closed and 40 remain open. Claims totaled \$405,329. Seventy percent (70%) were closed without payment for damages, but Pearl incurred substantial attorney fees due to the “first dollar defense limit” in their policy. Responding to an inquiry from Mr. Perrot, Mr. Mounsey and Mrs. Cooper stated that claims in connection with property management are uncommon, usually involving embezzlement by an employee/agent, wrongful eviction, etc. They reminded the committee that errors and omissions insurance covers careless and negligent acts of agents, but not intentional wrongdoing, except for the innocent party (i.e., firm).

Mr. Mounsey and Ms. Cooper cautioned the committee that although errors and omissions insurance rates are now at their lowest point ever, they are expected to increase substantially in the future. They stated that, due to the litigious nature of our society compounded by the events of September 11, reinsurers are assessing more carefully the insurance carriers’ exposure to risk. As a result, errors and omissions insurance could become less available and, therefore, more costly. Consequently the committee should be especially concerned with whether carriers have the resources to remain viable over the long-term.

Mr. Mounsey and Ms. Cooper furnished the committee information regarding Pearl & Associates’ errors and omissions insurance program for real estate agents [Item 1].

Mandatory Errors and Omissions Insurance in Other States. Mr. Fisher furnished and reviewed with the committee information compiled by Paralegal Intern Linda Wheeler on mandatory errors and omissions insurance programs in the United States [Item 2]. As described in the report, thirteen states have enacted laws requiring real estate licensees to maintain errors and omissions insurance as a condition for keeping their licenses on active status. Of these, twelve require their real estate licensing agencies to contract with an insurer for a group policy to assure that insurance is readily available and reasonably affordable; however, licensees may purchase insurance from other providers so long as the coverage is comparable to the group policy. The group policies pay up to \$100,000 per claim per licensee not to exceed \$300,000 (sometimes \$500,000) total during the policy period. Most policies have a \$1,000 deductible for losses but no deductible for attorney fees. Premiums range from \$65 to \$100 per year. According to Mr. Fisher, proponents of state-sponsored group policies contend that, by their very nature, group policies result in lower premiums for insureds.

Mandatory vs. Voluntary Programs

It was the consensus of the committee that real estate consumers and practitioners can benefit from errors and omissions insurance when consumers are injured by the practitioners’ negligent acts, and the practitioners would not otherwise be financially able to compensate them.

In discussing possible disadvantages to errors and omissions insurance, the committee questioned whether litigation is more likely if consumers (and their attorneys) are aware that real estate licensees have errors and omissions insurance coverage. Mr. Dameron related to the committee his conversations with the Executive Director of the Tennessee Real Estate Commission in which the director stated that no such increase was observed in Tennessee following enactment of its mandatory errors and omissions insurance law.

The committee then discussed the relative advantages and disadvantages of state-mandated errors and omissions insurance for real estate agents. In response to a question from Mr. Fisher, neither the committee members nor Mr. Mounsey and Ms. Cooper were aware of any other occupation or profession where practitioners are required to be covered by errors and omissions or other liability insurance. Mr. VanDyke and other members expressed the belief that state-mandated insurance should be pursued only if there is a compelling public interest to do so.

Of particular interest and concern to the committee were the possible ramifications of a group policy offered by an insurance provider under contract with the Real Estate Commission. Inasmuch as the \$100,000 standard limit required under state-sponsored group policies is less than the \$1,000,000 coverage currently maintained by most North Carolina real estate agents who have errors and omissions insurance as reported by Mr. Mounsey, Mr. Perrot and other committee members expressed concern that a state-sponsored insurance program may, in fact, “water down” coverage; i.e., agents may, to the possible detriment of both consumers and practitioners, opt for the lower limit which the Real Estate Commission has presumably deemed adequate. Concern was also expressed that, although licensees may purchase comparable insurance from other carriers, such carriers would find it difficult to compete with the lower rates offered by the group policy carrier; therefore, there would be fewer insurance choices available. Mr. Mounsey confirmed that this was, in fact, the experience of Pearl Insurance in those states where state-sponsored group policies are available. Mrs. Proffitt and Mr. Martin inquired as to whether there was any other evidence that state-sponsored group policies limit competition among carriers. It was suggested that Mrs. Proffitt contact Ms. Wheeler to ascertain whether

she had gathered any information on this in the course of her research.

Committee Action

After discussion, the committee, without addressing the question of whether brokers and salespersons should be required to have errors and omissions insurance, did adopt the position that any legislation requiring North Carolina real estate licensees to maintain errors and omissions insurance should not direct the Real Estate Commission or any other entity to contract with an insurance provider for a group policy, but rather limit the Commission's involvement to assuring that licensees maintain insurance *[Mrs. Proffitt and Mr. Martin abstained.]*.

With regard to the fundamental question of whether brokers and salespersons should be required to maintain errors and omissions insurance as a condition for keeping their licenses on active status, the committee postponed action pending receipt of additional information. Specifically, the committee wanted to know (1) how many real estate licensees in North Carolina currently have errors and omissions insurance coverage; and (2) the opinion of licensees regarding a possible requirement that they maintain errors and omissions insurance. To better determine the number of licensees in North Carolina covered by errors and omissions insurance, Ms. Cooper

agreed to furnish Mr. Fisher the names and business addresses of other major carriers in North Carolina. Mr. Fisher will then request from them information on the number of real estate agents they insure. And to gauge the likely reaction of real estate practitioners to a possible errors and omissions insurance requirement, Mr. Martin agreed to discuss with the appropriate persons at the North Carolina Association of REALTORS® their interest in surveying their members on this subject.

If the North Carolina Association of REALTORS® agrees to survey its membership and the results are available for review by the committee at its May 29 meeting, the committee will meet as scheduled. Otherwise, the committee will reconvene July 2. Mr. Fisher will notify the committee members of the date for their next meeting.

Mr. Fisher and the committee members thanked Mr. Mounsey and Ms. Cooper for their very informative presentations.

There being no further business, the meeting was adjourned.

This 29th day of May, 2002.

Phillip T. Fisher
Phillip T. Fisher, Facilitator

MANDATORY ERRORS & OMISSIONS INSURANCE PROGRAMS

Overview

The purpose of errors and omissions (E&O) insurance for real estate agents is to protect real estate consumers and agents from financial loss arising from the agents' inadvertent negligent acts. Based upon data provided by the Tennessee Real Estate Commission (*See attached*), these acts most frequently involve misrepresentations (square footage, termites, etc.).

Thirteen states have enacted laws requiring their real estate brokers and salespersons to maintain E&O insurance as a condition for keeping their licenses on active status. Some states also require brokerage firms to have a separate policy. To assure that this insurance is available, twelve of these states (not Rhode island), have required their real estate commissions to contract (following a competitive bid process) with an insurer for a group policy. The legislation normally authorizes the commission to specify the terms and conditions of the group policy but allows licensees to obtain E&O insurance independently if the coverage complies with the minimum requirements established by the commission.

Of the thirteen states which mandate E&O insurance, nine real estate commissions have contracted with Rice Insurance Services Company, LLC as the provider for their group policy (Medmarc Casualty Insurance Company carrier) and four with Williams Underwriting Group (Chicago Insurance and Ace American carriers). The providers normally collect premiums, maintain records, report to the commissions on who is insured and claims made. The real estate commissions also assume additional tasks and responsibilities including educating and informing licensees about the insurance requirement, determining whether insurance outside the group policy meets the commission's minimum requirement, tracking and changing the license status of licensees, responding to inquiries from licensees, etc. which can require additional staffing.

As shown on the attached chart, the group policies pay up to \$100,000 per claim per licensee not to exceed \$300,000 (\$500,000 in some states) during any one policy period (i.e., aggregate limit). Under most group policies, the licensee is required to pay the first \$1,000 of any loss (i.e., deductible). The carrier pays for attorney fees and other costs required to defend the claim, although several states also have a deductible for defense costs (usually \$1,000). The cost (premium) for the insurance ranges from around \$65 to \$100 per year. Licensees are also able to increase their limits of liability and/or cover acts not included in the regular group policy (e.g., regulatory complaints, racial steering, environmental complaints, etc.). The insurer has no right to cancel any licensee.

NORTH CAROLINA REAL ESTATE COMMISSION
ERRORS AND OMISSIONS INSURANCE ADVISORY COMMITTEE

Meeting

May 29, 2002

Raleigh, North Carolina

REPORT

Committee Members Present:

Allan R. Dameron, Holden Beach
Patrice F. Jones, Belmont
Will Martin, Greensboro
Sharon L. Pelt, Raleigh
David L. Perrot, Kitty Hawk
Wanda J. Proffitt, Burnsville
John D. VanDyke, Asheville

Committee Advisors (N.C. Real Estate Commission Staff):

Phillip T. Fisher, Executive Director (*Facilitator*)
Mary Frances Whitley, Director of Administration
Special Deputy Attorney General Thomas R. Miller,
Legal Counsel

April 30 Meeting Report

With regard to his report concerning the committee's April 30 meeting, a copy of which was furnished to each committee member prior to its May 29 meeting, Mr. Fisher pointed out on page 5 of the report that the word "unavailable" should instead be "available." The committee adopted the meeting report reflecting this change.

Mandatory Errors and Omissions Insurance

The committee resumed its discussion of whether North Carolina real estate brokers, salespersons and perhaps firms (on active license status) should be required to have errors and omissions insurance coverage. Action on this item had been postponed by the committee at its previous meeting pending receipt of additional information regarding the number of real estate licensees in North Carolina which may currently have errors and omissions insurance coverage, and the opinion of licensees regarding a possible requirement that they maintain such insurance.

Number of Licensees with Errors and Omissions Insurance. Regarding the number of North Carolina real estate licensees who already have errors and omissions

insurance coverage, Mr. Fisher reported that John P. Pearl & Associates, Ltd., a primary provider of errors and omissions insurance to North Carolina real estate agents, had furnished him a list of other North Carolina carriers. Mr. Fisher added that, although his Assistant had contacted all carriers on the list requesting the number of North Carolina licensees they insure, very few responded; consequently, the information was inconclusive. However, based upon the results of a survey conducted by the North Carolina Association of REALTORS® at the request of the committee, 74% of the respondents indicated they have coverage. Mr. Fisher reminded the committee members that they were advised at their previous meeting that, according to data compiled by the National Association of REALTORS®, approximately 80% of its members have errors and omissions insurance coverage. However, some committee members questioned whether 80% of non-REALTORS® are, in fact, covered. Nevertheless, for purposes of discussion, the committee spoke in terms of twenty percent (20%) of persons active in the real estate business as not currently having errors and omissions insurance coverage.

Licensee Reaction to E&O Insurance Requirement.

Mr. Martin reviewed with the committee the results of a recent survey of its membership conducted by the North Carolina Association of REALTORS® at the request of the committee to gauge the opinion of its members regarding a possible requirement that they maintain errors and omissions insurance. Mr. Martin stated that the survey was e-mailed to the 12-13,000 members of the Association for whom the Association has e-mail addresses, representing approximately one-half of its membership. Approximately 1,300 responses were received which, according to Mr. Martin, was one of the best response rates ever realized by the Association for an Internet survey. As shown in the "Results Summary" [Item 1] and the accompanying "Open-ended Results Detail," approximately 77% responded that they currently have errors and omissions insurance coverage. A little more than half of the respondents think the Real Estate Commission should require all licensees to have E&O insurance coverage mainly because it would reduce

all agents exposure to financial loss but also because it would protect consumers and enhance the practitioners' professional image. Those respondents opposed to state-mandated insurance cited as their primary reason "too much government regulation already" and also expressed concern that it might encourage litigation and be costly especially to small firms and persons not engaged in the real estate business on a full-time basis. When asked whether the Real Estate Commission should contract with an insurer for a group policy, 44% responded favorably if it would better assure that coverage is available and affordable. The committee thanked Mr. Martin and NCAR Communications Director Diane Greene for compiling this very helpful information.

Committee Action

Following its review and analysis of the results of the N.C. Association of REALTORS® survey, the committee raised and discussed other issues regarding the question of whether errors and omissions insurance should be mandated. Mr. Dameron related to the committee concerns expressed to him by Commission member Bill Lackey that persons with active real estate licenses may not be able to obtain errors and omissions insurance if their practice is limited to buying, selling, etc. real estate for their own account, rather than as agent for others. The committee acknowledged that any law or rules mandating errors and omissions insurance would have to address certain exceptional circumstances. Mr. Perrot stated that his firm, whose agents are covered by errors and omissions insurance, cooperate in transactions with subagents who are not. By requiring all licensees to have coverage, he believed his firm and other firms who cooperate with subagents would benefit since claimants would also have recourse to the subagent's policy.

Mr. VanDyke queried whether there may be some means, other than a requirement, of encouraging the 20% of uninsured licensees to purchase errors and omissions insurance. In this regard, the committee discussed undertaking efforts to better educate licensees concerning their liability and the legal risks inherent in real estate brokerage practice. Ms. Pelt suggested that an appropriate forum for such instruction would be the real estate continuing education *Update* course developed annually by the Real Estate Commission and required of all licensees in order to maintain their licenses on active license status. After discussion, the committee voted to recommend to the Real Estate Commission that it include in a future continuing education *Update* course instruction on risk reduction and related issues, including the benefits of errors and omissions insurance coverage.

Returning to the issue of whether real estate errors and

omissions insurance should be mandated, at the request of Mr. Martin and Mrs. Proffitt, the committee revisited the position it adopted and its previous meeting that "any legislation requiring North Carolina real estate licensees to maintain errors and omissions insurance should not direct the Real Estate Commission or any other entity to contract with an insurance provider for a group policy, but rather limit the Commission's involvement to assuring that licensees maintain insurance." Mr. Martin reported on his recent conversation with Mike Gorham, Executive Director of the Colorado Real Estate Commission, whom he contacted because Colorado appeared to be the state requiring errors and omissions insurance which is most similar to North Carolina in terms of number of licensees. Mr. Gorham stated that the mandatory errors and omissions insurance program in Colorado has been an unqualified success, receiving strong acceptance from licensees. He attributed the popularity of the program at least in part to the group policy contracted for by the Commission which not only increased the breadth of coverage but also prevented the carrier from canceling coverage and/or increasing premiums for licensees filing claims. Mr. Gorham acknowledged that 90% of the Commission's licensees subscribed to the state policy, supplanting existing carriers. Mr. Dameron renewed his concern that insurance carriers would likely vigorously oppose any legislation mandating errors and omissions insurance for real estate licensees which directs or authorizes the Real Estate Commission to contract for a group policy, and that this could jeopardize passage of any legislation mandating errors and omissions insurance.

After discussion, the committee requested Mr. Miller and Mr. Martin to draft a motion for its consideration recommending to the Real Estate Commission that it seek legislation requiring North Carolina real estate licensees to obtain errors and omissions insurance coverage. Mr. Miller read to the committee the following motion:

"Resolved, That the Errors and Omissions Insurance Advisory Committee recommend to the North Carolina Real Estate Commission that:

1. The Commission enact legislation which would permit the Commission to require all or certain of its licensees to purchase errors and omissions insurance;
2. The legislation grant the Commission the authority to (a) set the standards and limitations of the required coverage, (b) negotiate with insurance

providers for a group policy which the Commission may make mandatory or optional for some or all licensees, and (c) establish the fees and administrative and enforcement mechanisms necessary to give force and effect to any errors and omissions insurance program; and

3. The Commission consult with the North Carolina Association of REALTORS® and other organizations and parties interested in such legislation.”

Mr. Martin moved (Mrs. Proffitt seconded) the adoption of the motion. The motion was defeated after debate. *[Mr. Martin, Mrs. Proffitt and Ms. Jones voting in favor of the motion; Mr. Dameron, Mr. Perrot, Ms. Pelt and Mr. VanDyke opposed.]*

Upon a motion duly made and seconded, the committee then voted on the previous motion deleting provision 2.(b) authorizing the Commission to negotiate with insurance providers for a group policy. The motion was adopted. *[Mr. VanDyke voted against the motion citing*

that there was, in his opinion, insufficient evidence presented of a compelling need for such a requirement and expressing concern over the cost to licensees and costs to administer the program.]

Mr. Martin stated that this issue was scheduled for discussion at a June 11 meeting of the North Carolina Association of REALTORS® Executive Committee. Mr. Fisher stated that he would prepare and circulate to the committee members for their comments a report of their meeting, and that a final report containing the committee’s recommendations would be presented to the Real Estate Commission at its July meeting.

Mr. Fisher thanked the committee members for their valuable service to the Real Estate Commission with regard to this issue.

There being no further business, the meeting was adjourned.

This 28th day of June, 2002.

Phillip T. Fisher
Phillip T. Fisher, Facilitator